

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Wendell Dwayne O’Neal,

Civil 05-1897 JMR/FLN

Plaintiff,

v.

REPORT & RECOMMENDATION

Unknown 911 Dispatcher, et al.,

Defendants.

Plaintiff has filed, together with his several pleadings in this case, a document which he calls “Protective Order Motion”. [#4] It appears, however, from the relief he seeks, that what he really wants is a Preliminary Injunction or a Temporary Restraining Order. “Plaintiff now moves for a protective order restraining all defendants . . . from retaliation . . .”

To be entitled to preliminary injunctive relief, plaintiff must establish, among other things, that he has a likelihood of success on the merits of his claims, and that absent such an order, he will suffer irreparable harm, see *Dataphase Systems, Inc. v. C.L. Systems, Inc.*, 640 F.2d 109 (8th Cir. 1981). As the Court has denied his application to proceed *in forma pauperis*, because his pleadings fail to conform to the Rules of Civil Procedure, it is unlikely that he will succeed on the merits of his claim. Moreover, based upon the allegations in his various pleadings, it does not appear to the Court that he will suffer irreparable harm, in the event a restraining order is not issued.

Based upon all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED that the Plaintiff’s motion for a protective order [#4] is DENIED.

DATED: September 2, 2005.

s/ Franklin L. Noel

FRANKLIN L. NOEL
United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **September 22, 2005**, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under the rules shall be limited to ten pages. A judge shall make a de novo determination of those portions to which objection is made.

This Report and Recommendation does not constitute an order or judgment of the District Court, and it is, therefore, not appealable to the Circuit Court of Appeals.